

3/17/15

1:12 P.M.

Chapter No. 364

15/SS26/R777

aj 166/h

SENATE BILL NO. 2443

Originated in Senate

Ark W. Smith

Secretary

SENATE BILL NO. 2443

AN ACT TO AMEND SECTIONS 83-17-7, 83-17-55, 83-17-63 AND 83-17-73, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL EMPLOYEES AND AUTHORIZED AGENTS OF A LIMITED LICENSE RENTAL CAR COMPANY MAY RECEIVE COMPENSATION FOR ACTIVITIES UNDER THE RENTAL CAR COMPANY'S LIMITED LICENSE THAT IS INCIDENTAL TO THEIR OVERALL COMPENSATION; THAT SUCH EMPLOYEES AND AUTHORIZED AGENTS SHALL BE DEEMED TO BE LICENSED UNDER THE RENTAL CAR COMPANY'S LIMITED LICENSE, AND THAT SUCH EMPLOYEES AND AUTHORIZED AGENTS SHALL NOT REQUIRE ANY ADDITIONAL LICENSING; TO BRING FORWARD SECTION 83-17-1, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-17-7, Mississippi Code of 1972, is amended as follows:

83-17-7. (1) It shall be unlawful for any insurance company or any insurance agent to pay, directly or indirectly, any commission, brokerage or other valuable consideration on account of any policy or policies written on risks in this state to any person, agent, firm or corporation not duly licensed as an insurance agent in this state, except that property and other risks of nonresident persons, and of foreign corporations not

qualified in this state, may be insured by brokers or other agents duly licensed in other states.

It shall be lawful, however, for an insurance company or any insurance agent to pay, directly or indirectly, to the surviving spouse or heirs of a deceased licensed insurance agent in this state any commissions or other valuable consideration to which the deceased agent would be entitled, whether such surviving spouse or heir is or is not a licensed agent.

It shall be lawful for an insurance agent, agency or affiliate to pay a referral fee to any unlicensed employee of the agent, agency or affiliate when the employee refers a prospective insured to the licensed agent or agency. The referral fee shall be a one-time nominal fee of a fixed dollar amount for each referral customer. The payment of any referral fee shall not depend on whether the referral results in a sale of any insurance products. Furthermore, the referral fee shall not be based on a percentage of any premiums or commissions collected by the licensed agent. The referral fee shall not be paid, either directly or indirectly, to the prospective insured.

(2) Notwithstanding any provision in this section to the contrary, employees and authorized agents of a limited license rental car company:

(a) May receive compensation for activities under the rental car company's limited license that is incidental to their

overall compensation, including, but not limited to, commissions, bonuses and other valuable consideration;

(b) May offer, sell or solicit, in connection with and incidental to the rental of rental cars, the kinds of insurance specified in Section 83-17-63(1)(h) under the limited license of the rental car company; and

(c) Shall not require any additional licensing under this chapter or any other provision of Title 83 relating to paragraph (a) or (b) above.

(3) The Commissioner of Insurance may promulgate rules and regulations necessary to carry out the provisions of this section.

SECTION 2. Section 83-17-55, Mississippi Code of 1972, is amended as follows:

83-17-55. (1) A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this article.

(2) No license shall be issued to a partnership unless all the partners thereof satisfy the same requirements in every respect for an individual producer provided for in this article.

(3) Notwithstanding any provision in this section to the contrary, employees and authorized agents of a limited license rental car company:

(a) May receive compensation for activities under the rental car company's limited license that is incidental to their

overall compensation, including, but not limited to, commissions, bonuses and other valuable consideration;

(b) May offer, sell or solicit, in connection with and incidental to the rental of rental cars, the kinds of insurance specified in Section 83-17-63(1)(h) under the limited license of the rental car company; and

(c) Shall not require any additional licensing under this chapter or any other provision of Title 83 relating to paragraph (a) or (b) above.

SECTION 3. Section 83-17-63, Mississippi Code of 1972, is amended as follows:

83-17-63. (1) Unless denied licensure under Section 83-17-71, persons who have met the requirements of Sections 83-17-59 and 83-17-61, shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(a) Life: insurance coverage on human lives including benefits of endowment and annuities and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(b) Accident and health or sickness: insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(c) Property: insurance coverage for the direct or consequential loss or damage to property of every kind.

(d) Casualty: insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(e) Variable life and variable annuity products: insurance coverage provided under variable life insurance contracts and variable annuities.

(f) Personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(g) Credit: limited line credit insurance.

(h) (i) Car rental: limited line insurance offered, sold or solicited in connection with and incidental to the rental of rental cars, whether at the rental office or preselection of coverage in master, corporate or individual agreements that is nontransferrable, applies only to the rental car that is subject of the rental agreement and is limited to the following kinds of insurance:

* * *1. Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

* * *2. Liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;

* * *3. Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period;

* * *4. Roadside assistance and emergency sickness protection insurance; or

* * *5. Any other coverage designated by the Commissioner of Insurance.

(ii) Notwithstanding anything in this section or any other provision of law to the contrary, employees and authorized agents of a limited license rental car company:

1. May receive compensation for activities under the rental car company's limited license that is incidental to their overall compensation, including, but not limited to, commissions, bonuses and other valuable consideration;

2. May offer, sell or solicit, in connection with and incidental to the rental of rental cars, the kinds of insurance specified in this paragraph (h) under the limited license of the rental car company; and

3. Shall not require any additional licensing under this chapter or any other provision of Title 83 relating to item 1 or 2 of this subparagraph (ii).

(iii) Each limited license rental car company shall conduct a training program for its employees and authorized agents in which the employees and authorized agents being trained

shall receive basic instruction about the kinds of insurance specified in this paragraph (h). Once its employees and authorized agents have been trained, each limited license rental car company shall provide supervision for these employees and authorized agents relating to their offer to, sale to, or solicitation of prospective renters of rental cars with respect to the kinds of insurance specified in this paragraph (h).

(i) Crop insurance: limited line insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance.

(j) Surety: limited line insurance or bond that covers obligations to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust. For purpose of limited line licensing, surety does not include Surety Bail Bonds.

(k) Travel: limited line insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier.

(l) Any other line of insurance permitted under state laws or regulations.

(2) An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in Section 27-15-87 is paid and education requirements for resident individual producers are met by the due date.

(3) An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. The penalty for such late renewal shall be in compliance with Section 27-15-215.

(4) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstances, including, but not limited to, a long-term medical disability may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(5) The license shall contain the licensee's name, address, personal identification number and the date of issuance, the lines of authority, the expiration date and any other information the commissioner deems necessary.

(6) Licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address within thirty (30) days of the change. Failure to timely inform the commissioner of a change in legal name or address shall result in a penalty under Section 83-17-71.

(7) In order to assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the commissioner and the nongovernmental entity may deem appropriate.

SECTION 4. Section 83-17-73, Mississippi Code of 1972, is amended as follows:

83-17-73. (1) An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(2) A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(3) Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this article at the time of the sale, solicitation or negotiation and was so licensed at that time.

(4) An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate Section 83-17-7 or any other applicable provision of Title 83, Mississippi Code of 1972.

(5) Notwithstanding any provision in this section to the contrary, employees and authorized agents of a limited license rental car company:

(a) May receive compensation for activities under the rental car company's limited license that is incidental to their overall compensation, including, but not limited to, commissions, bonuses and other valuable consideration;

(b) May offer, sell or solicit, in connection with and incidental to the rental of rental cars, the kinds of insurance specified in Section 83-17-63(1)(h) under the limited license of the rental car company; and

(c) Shall not require any additional licensing under this chapter or any other provision of Title 83 relating to paragraph (a) or (b) above.

SECTION 5. Section 83-17-1, Mississippi Code of 1972, is brought forward as follows:

83-17-1. Whenever used in this chapter, the following words shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Agent" means an insurance producer as defined in this section.

(b) "Nonactive agent" means an individual who is retired, disabled or has not obtained from the Commissioner of Insurance a current continuous certificate. A nonactive agent shall not solicit new business or service existing businesses, but may receive renewal commissions.

(c) "Supervising general agent" refers to and includes any person, partnership, association or corporation having authority to serve as trustees, managers or administrators, except attorneys at law, for such licensed insurance companies or their insureds in the handling of insurance programs underwritten by such licensed insurance companies, or in which they may be participating.

(d) "Excess risk" means all or any portion of an insurance risk or contract of annuity for which application is made to an agent and which exceeds the amount of insurance or annuity which will be provided by the insurer for which such agent is licensed.

(e) "Rejected risk" means an insurance risk or annuity contract for which application has been made to an agent and which insurance or annuity contract is declined by the insurer for which such agent is licensed.

(f) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

(g) "Commissioner" means the Commissioner of Insurance of the State of Mississippi.

(h) "Controlled business" means policies of insurance to be issued to a producer, agent or to his relatives, business associates, employers or employees, or in which they or either of them have an interest. No license shall be granted or renewed to any agent or producer until the applicant certifies with the Commissioner of Insurance that the applicant shall in good faith engage in the insurance business as agent or producer, and that he is not seeking a license for the purpose of acquiring or saving commissions, premiums or other valuable considerations on "controlled business." A violation of this paragraph shall be deemed to be probable if the commissioner finds that during any twenty-four-month period aggregate commissions or other compensations accruing in favor of the applicant with respect to his own interests or those of his family, relatives, employers, employees or business associates, as provided herein, have exceeded or will exceed thirty-five percent (35%) of the aggregate amount of commissions accruing to him as agent or his agency during such period of time. Nothing herein contained shall prohibit the licensing under a limited license as to motor vehicle physical damage insurance, any person employed by or associated

with a motor vehicle sales agency with respect to insurance on a motor vehicle sold, serviced or financed by it. Whenever employment is terminated of any such person employed by or associated with any such agency, the Commissioner of Insurance shall be notified, and the license shall be cancelled immediately. It is further provided that the provisions of this paragraph likewise shall not apply with respect to sales of insurance by a lender or its affiliate covering the insurable interest of the lender.

SECTION 6. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE SENATE
February 4, 2015



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 4, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/17/15
1:12pm